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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re Subpoena to:
Reddit, Inc.

CASE NO.: 3:23-mc-80173

**DECLARATION OF KERRY S.
CULPEPPER**

KERRY S. CULPEPPER, hereby declares under penalty of law that the following is true and correct:

1. I am an attorney and represent the Plaintiffs in the originating case *After II Movie LLC., et al., v. Grande Communications Networks LLC*, No. 1:21-cv-709 (W.D.TX) ("After II").

2. I have personal knowledge of the matters stated herein, and this declaration is given in support of Plaintiffs' MOTION TO COMPEL THIRD-PARTY REDDIT TO RESPOND TO SUBPOENA filed herewith.

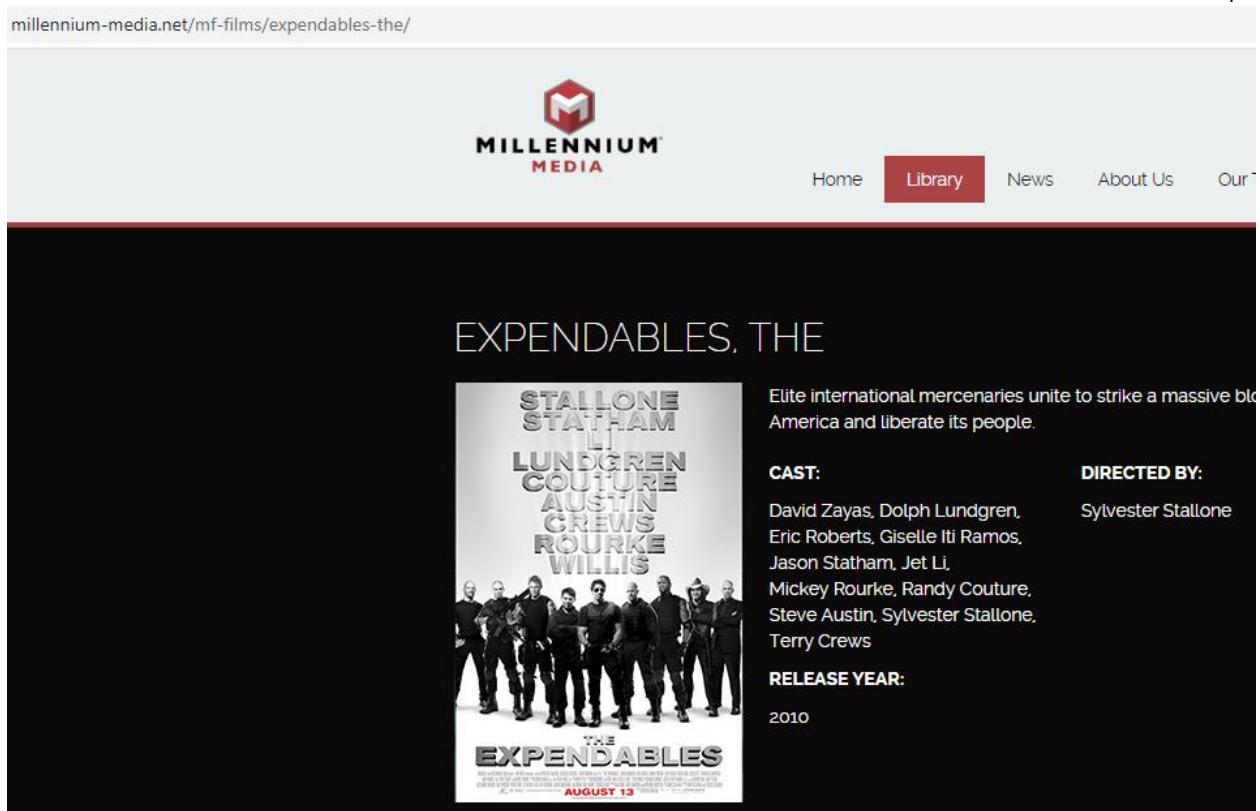
3. I am authorized to practice law in Hawaii, District of Columbia, Virginia, District of Colorado, District of Maryland and Western District of Texas.

4. The originating case After II was filed in the Western District of Texas against

1 Defendant Grande Communications Networks LLC.

2 5. Plaintiffs in the originating case are the owners of exclusive rights to the copyrights to
 3 motion pictures (“Works”).

4 6. Plaintiff Millennium Funding, Inc. is an affiliate of Millennium Media, Inc. An
 5 affiliate of Plaintiff Millennium Funding, Inc. owns the Work Expendables. Below is a true and
 6 accurate partial screenshot of Millennium’s website [https://millennium-media.net/mf-films/expendables-the/](https://millennium-media.net-mf-films/expendables-the/) where it advertises Expendables as being in its library.



7. Defendant is an Internet service provider (“ISP”) and part of a group of ISPs managed
 by the same group in Princeton, NJ under the brand Astound that operates from coast to coast in about
 12 states (from Massachusetts to California and including Texas in the southwest). RCN is also an
 ISP under Astound.

8. On Feb. 18, 2022, counsels for Plaintiffs and Defendant submitted their report for the
 Rule 26(f) conference they conducted on Feb. 17, 2022. After II, Doc. #27. Accordingly, discovery

1 opened in After II on Feb. 18, 2022.

2 9. On May 18, 2022, Plaintiffs filed a Second Amended Complaint (“SAC”) which is the
3 operative pleading. After II, Doc. #45. The SAC alleges that Defendant’s subscribers pirated
4 Plaintiffs’ Works thousands of times by sharing illegitimate file copies of the Works with CMI
5 modified to refer to notorious movie piracy websites in violation of Plaintiffs’ copyrights and their
6 right to integrity of CMI in digital copies of Plaintiffs’ Works (“DMCA violations”). The SAC further
7 alleges that Plaintiffs’ agents as well as agents of other copyright holders sent Defendant thousands
8 of notices informing of its subscribers’ ongoing piracy but Defendant took no meaningful action in
9 response. The SAC asserts counts of *inter alia* secondary liability for Defendant’s subscribers’
10 copyright infringements and DMCA violations.

11 10. On Oct. 6, 2022, the After II Court issued an Order authorizing Defendant to disclose
12 identities of customers assigned 125 Internet Protocol (“IP”) addresses subject to the confidentiality
13 provisions of the protective order.

14 11. On Oct. 7, 2022, I served a Second Request for Production of Documents (“2RPOD”)
15 on Defendant requesting identification information for the top 125 pirating IP addresses (out of
16 thousands).

17 12. On Nov. 11, 2022, I served a Fourth Request for Production of Documents (“4RPOD”)
18 on Defendant requesting *inter alia*: RFP#29 requesting “Each document that mentions, refers to, or
19 constitutes any report, analysis, commentary, or summary regarding copyright infringement at Grande
20 user accounts”; and RFP#39 requesting “Each document that mentions or relates to how Grande’s
21 policy or practices on copyright infringement at user accounts may relate to Grande’s ability to attract
22 potential customers or retain current customers.”.

23 13. On April 24, 2023, I had served a subpoena to Reddit requesting “Basic account
24 information including IP address registration and logs from 1/1/2016 to present, name, email address
25

1 and other account registration information for users: "robowiener"; "SquirtBottoms"; "Aikidi";
2 "kelsoATX"; "xBROKEx"; and "Schadenfreude_Taco". I have attached a true and accurate copy of
3 the subpoena as Exhibit "1". I noticed the subpoena to Defendant prior to service.
4

5 14. On May 8, 2023, Reddit's counsel served objections to the subpoena on Plaintiffs'
6 counsel. I have attached a true and accurate copy of Reddit's objections as Exhibit "2".
7

8 15. On May 9, 2023, Reddit's counsel and I conferred on Reddit's objections by video and
9 later by follow up emails. We were not able to resolve Reddit's objections or otherwise come to a
10 resolution of this dispute.
11

12 16. On May 26, 2023, Plaintiffs received identification information from Defendant for
13 118 of the 125 IP addresses.
14

15 17. As of June 16, 2023, I have propounded 93 Requests for Production on Defendant.
16

17 18. On June 16, 2023, I received substantive documents from Defendant in response to
18 discovery requests. However, I have not received any marketing studies from Defendant concerning
19 why their subscribers choose its service, particularly evidence that they use the service for piracy such
20 as what I seek from Reddit.
21

22 19. My office has been sending letters to most of the subscribers of the 118 IP addresses
23 for which we have received identifications but have had limited success establishing communication
24 with most of them due to time constraints and refusals to respond to Plaintiffs' counsel's
25 communications. I do not believe we will be able to communicate with all the subscribers before the
26 Aug. 7, 2023 deadline for serving expert reports on Defendant.
27

28 20. I am informed and believe that Reddit's headquarters is in the Northern District of
California. Reddit's counsel and I agreed via email that this discovery dispute should be filed in the
Northern District of California.
29

30 21. I appeared pro hac vice on behalf of the Plaintiffs in the Case of In re Reddit, Inc., No.
31

1 3:23-mc-80037-LB, 2023 U.S. Dist. LEXIS 74338 (N.D. Cal. Apr. 28, 2023) ("Reddit I") in this
2 District. The underlying case in Reddit I is basically the same as the underlying case against Grande
3 but against Grande's sibling company RCN that is also part of Astound. I believe the decision of
4 Reddit I is highly instructive on the issues here. I have attached a copy of Reddit I as Exhibit "3".
5

6 22. In After II Plaintiffs are asserting claims based upon piracy of Defendant's subscribers
7 that begin in 2015 based upon the discovery rule.

8 23. I discovered xBROKEx's comment admitting to pirating the movie Expendable in
9 April recently before serving the subpoena on Reddit.
10

11 12 DATED: Kailua-Kona, Hawaii, June 20, 2023.

13 CULPEPPER IP, LLLC

14 
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